

FIRST REGULAR SESSION

SENATE BILL NO. 142

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

Pre-filed December 1, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0143S.02I

AN ACT

To repeal sections 409.605, 409.610, 409.615, 409.620, 409.625, and 409.630, RSMo, and to enact in lieu thereof six new sections relating to the financial protection of vulnerable populations.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 409.605, 409.610, 409.615, 409.620, 409.625, and
2 409.630, RSMo, are repealed and six new sections enacted in lieu thereof, to be
3 known as sections 409.605, 409.610, 409.615, 409.620, 409.625, and 409.630, to
4 read as follows:

409.605. As used in sections 409.600 to 409.630, the following terms shall
2 mean:

3 (1) "Agencies", the department of health and senior services and the
4 commissioner of securities;

5 (2) "Agent", shall have the same meaning as in section 409.1-102;

6 (3) "Broker-dealer", shall have the same meaning as in section 409.1-102;

7 (4) "Financial exploitation", the wrongful or unauthorized taking,
8 withholding, appropriation, or use of money, real property, or personal property
9 of a qualified adult;

10 (5) "Immediate family member", a spouse, child, parent, or sibling of a
11 qualified adult;

12 (6) "Investment adviser", shall have the same meaning as in
13 section 409.1-102;

14 (7) "Investment adviser representative", shall have the same
15 meaning as in section 409.1-102;

16 (8) "Qualified adult":

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

- 17 (a) A person sixty years of age or older; or
 18 (b) A person who:
 19 a. Has a disability as defined in section 192.2005; and
 20 b. Is between the ages of eighteen and fifty-nine;
 21 ~~[(7)]~~ **(9) "Qualified individual"[,];**
 22 **(a) A broker-dealer;**
 23 **(b) An investment adviser; or**
 24 **(c) A person associated with a broker-dealer or investment adviser who**
 25 **serves in a supervisory, compliance, or legal capacity as part of his or her job.**

409.610. If a qualified individual reasonably believes that financial
 2 exploitation of a qualified adult has occurred, has been attempted, or is being
 3 attempted, the qualified individual may notify the agencies. Subsequent to
 4 notifying the agencies, an **investment adviser representative**, agent, or
 5 qualified individual may notify an immediate family member, legal guardian,
 6 conservator, co-trustee, successor trustee, [or] agent under a power of attorney
 7 [of], **or other individual reasonably associated with** the qualified adult of
 8 such belief. **The agencies may provide information regarding a qualified**
 9 **adult to the reporting qualified individual upon request.**

409.615. 1. A qualified individual may refuse a request for disbursement
 2 **or transaction** from the account of a qualified adult, or an account on which a
 3 qualified adult is a beneficiary or beneficial owner, if:

4 (1) The qualified individual reasonably believes that the requested
 5 disbursement **or transaction** will result in financial exploitation of the qualified
 6 adult; and

7 (2) The [broker-dealer or] qualified individual, **within two business**
 8 **days:**

9 (a) [Within two business days] Makes a reasonable effort to notify all
 10 parties authorized to transact business on the account orally or in writing, unless
 11 such parties are reasonably believed to have engaged in suspected or attempted
 12 financial exploitation of the qualified adult; [and]

13 (b) [Within three business days] Notifies the agencies; **and**

14 **(c) Sends written notice to the qualified adult.**

15 2. Any refusal of a disbursement **or transaction** as authorized by this
 16 section shall expire upon the sooner of:

17 (1) The time when the [broker-dealer or] qualified individual reasonably
 18 believes that the disbursement **or transaction** will not result in financial

19 exploitation of the qualified adult; or

20 (2) Ten business days after the initial refusal of disbursement or
21 **transaction** by the qualified individual.

22 **3. (1) Notwithstanding subsection 2 of this section to the**
23 **contrary, following the refusal by a qualified individual of an initial**
24 **request for disbursement or transaction from the account of a qualified**
25 **adult:**

26 (a) A court of competent jurisdiction may enter an order extending the
27 refusal of a disbursement or **transaction** or any other protective relief;

28 (b) **The commissioner of securities may enter an order extending**
29 **the refusal of a disbursement or transaction for the time necessary to**
30 **protect the qualified adult; or**

31 (c) **The director of the department of health and senior services,**
32 **after notifying the commissioner of securities, may enter an order to**
33 **extend the refusal of a disbursement or transaction for the time**
34 **necessary to protect the qualified adult.**

35 (2) **Subsequent to the issuance of an order under paragraph (b)**
36 **or (c) of subdivision (1) of this subsection, the agencies shall conduct**
37 **a review of the circumstances every thirty days to determine if the**
38 **extending order shall remain in effect.**

409.620. Notwithstanding any other provision of law to the contrary, [a
2 broker-dealer] **an investment adviser representative**, agent, or qualified
3 individual who, in good faith and exercising reasonable care, complies with
4 section 409.610 or 409.615 shall be immune from any civil liability under those
5 sections.

409.625. A broker-dealer [may] **or investment adviser shall, upon**
2 **request**, provide access to or copies of records that are relevant to the suspected
3 financial exploitation of a qualified adult to the agencies or law enforcement. The
4 records may include historical records or records relating to the most recent
5 disbursement as well as disbursements that comprise the suspected financial
6 exploitation of a qualified adult. All records made available to the agencies under
7 this section shall not be considered a public record as defined under chapter 610.

409.630. No later than September 1, [2016] **2019**, the commissioner of
2 securities shall develop and make available a website that includes training
3 resources to assist broker-dealers [and], **investment advisers, agents, and**
4 **investment adviser representatives** in the prevention and detection of

5 financial exploitation of qualified adults. Such resources shall include, at a
6 minimum, indicators of financial exploitation of qualified adults and potential
7 steps broker-dealers [and], **investment advisers**, agents, and **investment**
8 **adviser representatives** may take to prevent suspected financial exploitation
9 of qualified adults as authorized by law.

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